IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1730 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ANUPSINH VAJESINH PARMAR - Applicant(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :
MR MANISH J PATEL for Applicant(s) : 1,
Mr. MR Mengdey, Addl.PUBLIC PROSECUTOR for Respondent(s) : 1,
None for Respondent(s) : 2 - 4.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 11/09/2007
ORAL JUDGMENT

Rule. Shri MR Mengdey, learned APP waives service of Rule on behalf of respondent No.1. By way of this petition under Article 226

of the Constitution of India the petitioner original-informant has prayed for an appropriate writ, direction or order directing the respondents to register complaint of the petitioner as 'FIR'. As the petitioner is suspecting that father of the petitioner has been murdered by persons named in paragraph 12(b) of the petition and considering the averments and allegations and the way in which dead body of father of the petitioner was recovered it appears that it might require further inquiry in the case. As held by the Hon'ble Supreme Court in the case of ***Aleque Padamsee And Others Vs. Union of India & Others,*** reported in *2007 (6) SCC 171*; another decision of the Hon'ble Supreme Court in the case of ***Parkash Singh Badal And Anr. Vs. State of Punjab & Others***, reported in *2007(1) SCC 1 [Para No.73];* and decision of this Court dated 25.7.2007 rendered in *Special Criminal Application No. 588 of 2007* in the case of ***Kalyansinh Shamjibhai Dayani & Another Vs. State of Gujarat,*** it will be appropriate if the

petitioner files a private complaint as required under Section 190 of the Cr.P.C., so that the learned Magistrate may either hold an enquiry by himself or direct the police authorities to hold enquiry under Section 156(3) or under Section 202 of the Cr.P.C. Under the circumstances, the present petition is not entertained. The petitioner is relegated to the Court of JMFC to file private complaint under Section 190 of Cr.P.C. With these, the present petition is disposed of. Rule is discharged.

[M.R. Shah, J.]

rmr.